

ITEM NO.40

COURT NO.11

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).6774/2008

(From the judgement and order dated 14/09/2007 in FMA No. 280/2007
of The HIGH COURT OF CALCUTTA)

PRATAP DHAR & ANR.

Petitioner(s)

VERSUS

KOLKATA MUNICIPAL CORPORATION & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 27/09/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) None present

For Respondent(s) Mr. L.C. Agrawala, Adv.

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against the judgment and order of the Division Bench of Calcutta High Court dismissing the appeal preferred by the petitioners against the order passed by the learned Single Judge in Writ Petition No.20243(W) of 2005.

A perusal of the record shows that Shop No.01-116 situated at Gariahat Market, Kolkata was allotted to Probirendra Dhar in 1985 at a cost of Rs.1,56,763.80. After some time, the allottee entered into an agreement with the petitioners for transfer of

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the shop, which was duly sanctioned by respondent No.1. The allotment was cancelled by respondent No.1 on 9.11.1987.

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After some time, the petitioners were asked to participate in the lottery for allotment of an alternative shop.

successful in the draw, the petitioners were allotted On being declared

Shop No.02-94 for Rs.1,66,480/-. The allotment of second shop was also cancelled on 28.9.1996 and a sum of Rs.89,897/- was refunded to the petitioners.

The writ petition filed by the petitioners for refund of the balance amount with interest was partly allowed by the learned Single Judge and respondent No.1 was directed to pay the

balance amount. However, the petitioners' prayer for award of interest was not accepted. The Division Bench dismissed the appeal filed by the petitioners.

This special leave petition was filed by Shri Sunil Kumar Verma, Advocate. After the notice of the special leave petition was served upon respondent Nos.1 and 2, learned counsel for the

petitioners made an application for being discharged. His prayer was accepted by the Registrar on 15.10.2008 and notice was issued to the petitioners for alternative arrangement.

The office report shows that the notice has been duly served upon the petitioners.

We have heard learned counsel for respondent Nos.1 and 2 and perused the record. In our view, the special leave petition is liable to be dismissed because the petitioner has not placed on record allotment letter or copy of the agreement executed between him and the competent authority of respondent No.1 and without going through these documents, it is not possible to entertain his prayer for issue of a direction to respondent No.1 to pay interest on the amount deposited by him in lieu of

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allotment of the second shop.

The special leave petition is accordingly dismissed.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master